SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 0569

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| **UNITED STATES OF AMERICA,** | ) | Magistrate Case No.______________ |
| | ) | |
| Plaintiff, | ) | COMPLAINT FOR VIOLATION OF: |
| | ) | |
| v. | ) | Count 1: Title 8 U.S.C. Sec. 1324 (a) (1) (A) (iii) Harboring Illegal Aliens (Felony) |
| | ) | |
| | ) | |
| **Mathew Will Charles Kennedy** | | |
| **Sandra Bni** | ) | Count 2: Title 8 U.S.C., Sec. 1324 (a)(1) (A)(ii) Transportation of Illegal Aliens |
| **Lawrence Doss** | ) | |
| Defendants | ) | |
| | ) | |

The undersigned complainant, being duly sworn, states:

Count 1;

That on or about February 25, 2008, within the Southern District of California, defendants **Mathew Will Charles Kennedy** and **Sandra Bni**, knowing and in reckless disregard of the fact that an alien or aliens, namely, **Demitrio SANTIAGO-Santiago (A088923528), Simon FELIX-Compana (A088923527), and Pedro SANTOS-Peralta (A088923531)** had come to, entered and remained in the United States in violation of law, did conceal, harbor and shield from detection and attempt to conceal, harbor and shield from detection such alien in a building located at 29146 Highway 94, Space #13, Campo, California 91906; in violation of Title 8 United States Code, Section 1324(a)(1)(A)(iii).

Count 2;

On or about February 25, 2008, within the Southern District of California, defendant **Lawrence Doss**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Simon FELIX-Compana (A088923527) and Pedro SANTOS-Peralta (A088923531)** had come to, entered and remained in the United States in violation of law, did transport and move, said alien within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant states that this complaint is based on the attached statement of facts which is incorporated herein by reference.

Thomas R. Mendias
Special Agent, U.S. Immigration and Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **26th** DAY OF **February, 2008**

UNITED STATES MAGISTRATE JUDGE

## STATEMENT OF FACTS

The complainant states that he believes that **Simon FELIX-Compana (A088923527), and Demitrio SANTIAGO-Santiago (A088923528), and Pedro SANTOS-Peralta (A088923531)** are citizens of a country other than the United States; that said aliens have admitted that they are deportable as defined in Title 8, United States Code, Section 1251; that it is impracticable to secure their attendance at the trial thereof by subpoena, and that they are material witnesses in relation to this charge and should be held or admitted to bail as prescribed in Title 18, United States Code, Section 3144.

## PROBABLE CAUSE STATEMENT

On February 25, 2008, at approximately 6:15 A.M., Border Patrol Agents assigned to the El Cajon Border Patrol Station received a citizen's report of a group of suspected illegal aliens loading into a vehicle in the Mountain Empire Campground near Space 13. Supervisory Border Patrol Agent Joseph Andrews, Field Operations Supervisor Ronald Roberts, Supervisory Border Patrol Agent Jason Feldman, and Border Patrol Agent Romelio Rogel responded to the scene. FOS Roberts and BPA Rogel went to Space 13 in the campground and SBPA Feldman and SBPA Andrews looked for the suspect vehicle described as a sedan with black metallic paint, near the entrance to the campground.

SBPA Andrews and SBPA Feldman observed a vehicle that matched the description exiting the driveway of the campground. Agents Feldman and Andrews approached the vehicle, identified themselves as United States Border Patrol Agents, and contacted the driver, now identified as DOSS, Lawrence. Upon contacting the driver, Agents Feldman and Andrews observed numerous subjects ducking down in the rear seat of the vehicle. Agents Feldman and Andrews identified themselves as United States Border Patrol Agents to the occupants and questioned them as to their immigration status. All four of the rear seat occupants stated that they were citizens and nationals of Mexico illegally present in the United States. Agents Feldman and Andrews placed them under arrest. Agents Feldman and Andrews then arrested DOSS for the crime of Alien Smuggling. During a search of the vehicle incident to arrest, Agents Feldman and Andrews discovered two additional subjects concealed in the trunk of the vehicle. Agents Feldman and Andrews identified themselves as United States Border Patrol Agents and questioned these two subjects as to their immigration status. Both subjects admitted to being citizens and nationals of Mexico illegally present in the United States. Both subjects were also arrested.

During the encounter with the vehicle, FOS Roberts and BPA Rogel responded to the trailer located in Space 13 of the Mountain Empire Campground. Upon responding to the trailer, BPA Rogel encountered the manager of the campground, Shawn Wallace, near Space 13 in the campground. Wallace stated that he had observed the suspected illegal aliens come out of the trailer located at Space 13 and get into the black metallic vehicle. During the conversation with Wallace, BPA Rogel heard SBPA Feldman broadcast over the radio that the car was loaded with six illegal aliens from Mexico. Wallace overheard the conversation on the radio and granted BPA Rogel and FOS Roberts permission to enter the trailer located at Space 13. BPA Rogel and FOS Roberts approached the trailer, knocked on the door and were greeted by a man BPA Rogel recognized as Kennedy, Matthew, a prolific smuggler within the El Cajon Border Patrol Station Area of Operations. BPA Rogel and FOS Roberts identified themselves as United States Border Patrol Agents and informed Kennedy that a citizen had seen a group of possible illegal aliens leave the trailer and get inside of a vehicle that was parked in Space 13. Kennedy advised that there was no one else inside the trailer besides himself and his girlfriend. BPA Rogel asked for and was granted consent to enter the premises and search for more illegal aliens by Matthew Kennedy. BPA Rogel then asked Kennedy and his girlfriend, now identified as Sandra Mae Bni, to step out of the trailer.

With Kennedy's consent, the Agents entered the trailer and discovered two additional subjects attempting to conceal themselves in the sho area of the bathroom inside the traile. ;PA Rogel and FOS Roberts identified themselves as United States Border Patrol Agents and questioned the two subjects as to their immigration status. Both subjects stated that they were citizens and nationals of Mexico illegally present in the United States. BPA Rogel and FOS Roberts arrested the two illegal aliens. BPA Rogel and FOS Roberts also arrested BNI and Kennedy for Harboring Illegal Aliens.

The three defendants, Kennedy, Bni, and Doss were all transported separately to the El Cajon Border Patrol Station for further processing. The eight illegal aliens were also arrested and transported to the El Cajon Border Patrol Station for further processing.

The cellular telephone of Matthew Kennedy was entered into evidence. The two cellular telephones in the possession of Lawrence Doss were entered into evidence. One of the telephones in possession of defendant Doss made a telephone call to the cellular telephone that was in defendant Kennedy's possession on 02/20/2008 at approximately 7:00 A.M. It is clear that Kennedy was instrumental in directing and organizing today's smuggling event.

Statement of Defendant Matthew Kennedy:

Mathew Will Charles Kennedy was arrested at the Mt. Empire Campgrounds, Space #13 which is located at 29146 Highway 94, Campo, CA. on February 25, 2008 at approximately 6:20 A.M. There were two undocumented aliens in the dwelling at the time of the arrest.

Kennedy was read his Miranda rights at 10:40 A.M. and provided the following statement.

Kennedy stated that he has been arrested on five separate occasions for alien smuggling. The first time he was arrested was in January 2008 while transporting five to eight undocumented aliens. The vehicle he was driving belonged to the Alien Smuggling Organization (ASO) he was working for.

The second time he was arrested on January 28, 2008 with five to eight undocumented aliens again driving a vehicle which was supplied to him by the ASO.

The third time he was arrested recently for speeding by plain clothes agents while looking for a load of undocumented aliens to be picked up.

The fourth time he was arrested was on February 14, 2008 while transporting five to eight undocumented aliens driving a vehicle supplied to him by the ASO.

Statement of Defendant Sandra Bni:

Sandra Bni was arrested at the Mt. Empire Campgrounds, Space #13 which is located at 29146 Highway 94, Campo, CA. on February 25, 2008 at approximately 6:20 A.M. There were two undocumented aliens in the dwelling at the time of the arrest.

Statement of Defendant Lawrence Doss:

On February 25, 2008 at approximately 11:03 A.M., Senior Patrol Agent Christopher Bush advised Lawrence Doss of his Miranda Rights in the English language as per form I-214. Senior Special Agent Thomas Mendias witnessed this event. DOSS stated that he understood these rights and agreed to speak without an attorney present. Doss was also advised of his right to retain material witnesses on his behalf. DOSS stated that he understood this right but declined to retain any material witnesses on his behalf.

DOSS stated that on today's d ne was approached by an unknown H nic male at the Golden Acorn Casino in Campo, California. DOSS stated that this person asked him if he wanted to make some money. DOSS responded in the affirmative and asked the male what he had to do. DOSS stated that the male told him that he would be transporting people. DOSS asked the male how much he would make and the male told him that he would pay DOSS $100.00 to do the job. DOSS stated that the Hispanic male told him that once the people were in the vehicle, he was to exit the trailer park and transit westbound on Highway 94 where he would receive a call once he was past the checkpoint with instructions on where to take the people. DOSS stated that he and the male then entered the vehicle that DOSS was arrested in and drove to a trailer park near the border on Highway 94. DOSS stated that the male exited the vehicle and went into the trailer and returned a short time later. DOSS stated that he then entered the trailer for the purpose of using the bathroom. DOSS stated that when he entered the trailer he observed several people of Hispanic decent and two Caucasian people, a male and a female inside the trailer. DOSS claims that he then fell asleep in the bathroom of the trailer and when he exited approximately one hour later, he only observed two Hispanic people and the two Caucasian people in the trailer. DOSS stated that he then exited the trailer and got behind the wheel of the vehicle he observed the same Hispanic people that were in the trailer now in the back seat of the vehicle and some people in the trunk of the vehicle. DOSS claimed that he was then stopped by the Border Patrol approximately one minute after driving the vehicle.

DOSS stated that he recognized the Caucasian people as the same people he was arrested with today. DOSS stated that he knew that it was illegal to smuggle illegal aliens and that he had a reasonable belief that the people in the vehicle with him were in fact illegal aliens.

Interview was concluded at 11:28 A.M., on February 25, 2008. DOSS signed a Material Witness retention form, indicating that he did not wish to retain any material witnesses on his behalf.

Statement of Material Witness Simon FELIX-Compana:

At approximately 11:30 A.M., FELIX was advised of his right to speak with a consular official of his country in the Spanish language by Agent Salazar and witnessed by Agent Bench. FELIX stated that he understood these rights and he indicated that he did not wish to contact the Mexican consulate at that time.

FELIX stated that he is not under the influence of any alcoholic beverages or narcotics. FELIX stated that he does not have any physical or mental health problems that would impede his ability to answer questions. FELIX stated that he has a high school level education and that he understands the Spanish language.

FELIX stated that he is a citizen of Mexico, without immigration documents allowing him to enter or remain in the United States legally. FELIX stated that he is from Sinaloa, Mexico. FELIX stated that he traveled by airplane approximately one week ago to Tijuana, Baja California, Mexico. FELIX stated that he then traveled to Tecate, Baja California where he met a man identified to him as Raul with whom he made smuggling arrangements. FELIX stated that he does not know the exact amount he was to pay for being smuggled. FELIX stated that when he crossed the border he walked for approximately one hour until arriving at a trailer where a tall thin man and a woman answered the door and let them in. FELIX stated that a light skinned woman provided them food when they got to the trailer.

FELIX stated that he waited inside the trailer until a American white male arrived and instructed him to get into the trunk of a vehicle. FELIX noted a dark skinned American male was driving the vehicle. FELIX stated that he was in the trunk of the vehicle a short time until the trunk opened and Border Patrol Agents arrested him.

FELIX was presented with photo lineup A consisting of six different photos. FELIX positively identified photograph number 2 as the m hat was driving the vehicle. Photogra number 2 depicts Defendant Number Three, DOSS, Lawrence.

FELIX was presented with photo lineup B consisting of six different photos. FELIX was unable to identify any of the photographs.

FELIX was presented with photo lineup C consisting of six different photos. FELIX positively identified photograph number 3 as the woman who gave him food inside the trailer. Photograph number 3 depicts Defendant Number Two, Sandra Mae BNI.

The interview was concluded at approximately 12:10 P.M.

Statement of Material Witness SANTIAGO-Santiago, Demetrio:

Demitrio Santiago-Santiago was a passenger in a 1989 black Ford Thunderbird Sedan California license #3UJV742. At approximately 06:20 a.m. on February 25, 2008, this vehicle was stopped by United States Border Patrol Agents by the Mt. Empire Campground area in Campo, CA.

The following is a summary statement of events SANTIAGO provided.

SANTIAGO stated that he was born in Oaxaca, Oaxaca Mexico on April 04, 1966 and is a citizen of Mexico. SANTIAGO has no legal immigration documents to enter or remain in the United States legally. SANTIAGO stated that his wife and four children reside in Mexico and has a brother and cousin living in the San Jose, California area

SANTIAGO stated that he was apprehended by the Border Patrol on February 23, 2008 while attempting to enter the United States illegally.

SANTIAGO stated that he departed Mexico D.F. on February 22, 2008 traveling by plane alone to Tijuana B.C. He then communicated with an unknown individual at the Oasis Hotel and made arrangements to be smuggled into the United States. He was then taken by taxi and dropped off at an unknown location after driving for approximately 45 minutes.

SANTIAGO stayed at a hotel in Tecate and was driven to the border on Sunday night where he met five other undocumented aliens and a foot guide. SANTIAGO and the others were guided into the United States illegally and after walking several minutes, they arrived at a trailer at approximately 8:00 p.m. The guide knocked on the door and ran back south towards Mexico. A big woman with short hair opened the door and told them to come in closing the door behind them. There was a tall white man in the house as well.

SANTIAGO stated that there was not enough room in the vehicle for him and that the vehicle would return for him later. Five minutes later, the Border Patrol arrived at the trailer and SANTIAGO was arrested.

SANTIAGO stated that he was to pay $2,700.00 USD to be smuggled into the United States and was going to the San Francisco, CA area.

SANTIAGO was shown a photographic line up "C" and positively identified the individual in position #3 as the woman who opened the door at the trailer and told them to come in.

Statement of Material Witness Pedro SANTOS-Peralta:

SANTOS-Peralta stated that his wife and 2 children live in Anaheim, California. His children are ages 1 and 4 years old. SANTOS has worked in construction for 2 ½ years in the United States. SANTOS stated that he received a ticket by the police for not having a working light on his vehicle. He failed to pay the ticket and was arrested by Police and turned over to Immigration and Customs Officials. He requested and was granted a voluntary return to Mexico.

SANTOS' uncle, who lives near Disneyland, arranged for someone to guide SANTOS into the United States and was to be charged $2,000.00 upon his successful transportation to Anaheim, California.

SANTOS was transported to Tecate, Mexico in a vehicle with 2 other males, "Victor" and "Alejandro." Once in Tecate, Mexico, he was met by an unknown guide and other persons waiting to be crossed into the United States. He stated that there were eight undocumented aliens in their group and one guide. SANTOS stated that they walked for 3 hours through the hills. SANTOS was taken by the guide to a trailer where a woman with short hair who spoke English answered the door. SANTOS stated that in the morning, he was picked up by a vehicle that was driven by a dark-skinned male. SANTOS stated that a white male was also present. The dark male put 2 of the aliens in the trunk. SANTOS noted that 4 aliens were in the car in addition to the 2 aliens in the trunk.

SANTOS was presented with a photographic line-up labeled "C." SANTOS identified #3 in line-up "C" as the woman who was as the trailer.